

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Wireless E911 Location Accuracy)	PS Docket No. 07-114
Requirements)	
)	

**TELALASKA CELLULAR, INC.
PETITION FOR TEMPORARY WAIVER**

TelAlaska Cellular, Inc. (“TCI” or “the Company”), by its attorneys and pursuant to Sections 1.3 and 1.925 of the Rules of the Federal Communications Commission (“FCC” or “Commission”),¹ and Paragraph 157 of the Commission’s *Fourth Report and Order*,² hereby seeks a temporary waiver of Section 20.18(i) of the FCC’s rules (Indoor location accuracy for 911 and testing requirements). In particular, TCI requests that the Commission waive the indoor accuracy requirements and various reporting requirements, because no public safety answering points (“PSAPs”) or State Trooper offices with responsibility for TCI’s service area have requested Phase II Enhanced 911 (“E911”) service, and none are capable of receiving or utilizing Phase II location or indoor location data. As a result, TCI has neither procured nor installed the equipment and services necessary to generate Phase II ALI or indoor location data, and it would be a meaningless waste of scarce resources with no public interest benefit for the Company to comply with indoor location standards and reporting requirements of Rule Section 20.18(i) in the absence of a capable PSAP. TCI respectfully requests a temporary waiver of the Commission’s

¹ 47 C.F.R. §§ 1.3 and 1.925.

² *Wireless E911 Location Accuracy Requirements*, Fourth Report and Order, 30 FCC Rcd 1259, at ¶ 157 (2015) (discussing the applicable waiver standards) (“*Fourth Report and Order*”).

indoor accuracy provisions and reporting rules up to and until a PSAP served by the Company is capable of receiving and using Phase II E911 and indoor location data and the Company has received a valid request for such data.

I. BACKGROUND

TCI is a very small wireless carrier that provides service in 20 remote and generally non-contiguous exchange areas³ within the Alaska 1 – Wade Hampton (CMA315) and the Alaska 2 – Bethel (CMA316) markets. TCI serves less than 750 mobile subscribers, and the company's networks are deployed across approximately 25,000 square miles. The communities served are non-contiguous, with no road service connecting them to other parts of Alaska. Access is available only via airplane or possibly boats when the ice is not blocking access. Density for these areas is approximately 0.32 housing units per square mile. The company brings wireless service to some of the most remote, rugged and culturally diverse geographic areas in the United States. TCI serves Alaskan communities such as Galena and Fort Yukon, where temperatures reach 90 degrees in the summer and 50 degrees below zero in winter. TCI also provides service to six villages located along the Iditarod Sled Dog Trail; and Little Diomed Island in the Bering Sea, just 2.6 miles from Russia. Due to the size of its service area, the low population density, and the challenging weather and terrain, TCI relies on the FCC's high cost funding programs to maintain its expansive wireless network.

The communities where TCI offers service are among the most remote and sparsely populated areas in the United States. In this regard, there are no PSAPs authorized by the State

³ TelAlaska Cellular services are currently available in Brevig Mission, Cold Bay, Elim, Fort Yukon, Galena, Golovin, Iliamna, King Cove, Koyuk, Little Diomed, Nome, Sand Point, Port Lions, Shaktoolik, Teller, Shishmaref, St. Michael, Stebbins, Unalaska/Dutch Harbor, Wales and White Mountain.

of Alaska to serve any of the communities or unincorporated areas where TCI operates its network. In these areas, 911 calls are either routed to a State Trooper's office in a regional hub or directly to a local police station. TelAlaska currently transmits all wireless 911 calls to the appropriate local emergency authority in accordance with its obligations under Section 20.18(b) of the Commission's Rules. What's more, the communities in TelAlaska's remote service areas inland and along the Bering Sea – including on several islands in the Aleutian chain – are unconnected to the road system and many are not provisioned with fire or emergency medical services. It should therefore come as no surprise that TelAlaska has not received any requests for E911 service as of the date of this waiver request. As a result, the company has not had any practical reason to spend its limited resources on implementing solutions to provide indoor location and Phase II E911 data that cannot be received, processed or used by a PSAP or local authorities.

In 2015, the Commission adopted amendments to its E911 rules which established new indoor location accuracy requirements at Section 20.18 (i). The requirements as initially adopted included an exemption for service providers that did not have a PSAP partner capable of receiving and utilizing indoor location data. The exemption specified:

The requirements set forth in paragraphs (d) through (n) of this section shall be applicable only to the extent that the administrator of the applicable designated PSAP has requested the services required under those paragraphs and such PSAP is capable of receiving and utilizing the requested data elements and has a mechanism for recovering the PSAP's costs associated with them.

However, the Commission subsequently issued an *Erratum* that removed this condition without explanation. In the *Erratum*, the limitation of 911 accuracy rules (*i.e.*, to the extent that the PSAP has requested and is capable of receiving and utilizing the requested data) was changed to apply only to paragraphs (d) through (h)(2) and paragraph (j) of Section 20.18. Paragraphs

(d) through (h)(2) address Phase I (call back number and cell site) and Phase II (location of 911 calls by longitude and latitude. Paragraph (j) covers delivery of confidence and uncertainty (c/u) data. Therefore, the “no capable PSAP” exception was changed by the *Erratum* to apply only to Phase I, to Phase II outdoor rules, and to the c/u requirements. Left missing from the no capable PSAP exception – without any explanation – was paragraph (i) – indoor location accuracy for 911 and testing requirements. This change is all the more curious because the same rule will only allow a PSAP to request FCC enforcement of the indoor location requirements if it has “implemented policies that are designed to obtain all location information made available by CMRS providers when initiating and delivering 911 calls to the PSAP.”

II. APPLICABLE WAIVER STANDARDS

In general, the FCC’s rules may be waived for good cause shown.⁴ Waiver is appropriate where the “particular facts would make strict compliance inconsistent with the public interest.”⁵ The FCC may grant a waiver of its rules where the requested relief would not undermine the policy objective of the rule in question, special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁶ Section 1.925(b)(3) of the Rules provides that the Commission may grant a waiver of its rules pertaining to wireless radio services if it is shown that: (i) [t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) [i]n view of unique or unusual factual circumstances of the

⁴ 47 C.F.R. § 1.3.

⁵ See *AT&T Wireless Services, Inc. et al. v. Federal Communications Commission*, No. 00-1304 (D.C. Cir. 2001), citing *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”).

⁶ See generally, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); see also *Northeast Cellular* (D.C. Cir. 1990).

instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.” Under WAIT Radio and Northeast Cellular Telephone Company, a rule waiver “may be granted in instances where the particular facts make strict compliance inconsistent with the public interest if applied to the petitioner and when the relief requested would not undermine the policy objective of the rule in question.”

In the context of the E911 location accuracy *Fourth Report and Order*, the Commission has clarified that any CMRS provider that is unable to comply with the E911 indoor location rules may seek waiver relief pursuant to Sections 1.3 and 1.925 of the Rules.⁷ As shown herein, TelAlaska meets the criteria for a temporary waiver of requirements to submit to the FCC live 911 call data reports, indoor location accuracy certifications, implementation plans and progress reports required by FCC Rule Sections 20.18(i)(3)(ii)(E), 20.18(i)(3)(iii), 20.18(i)(4)(i), and 20.18(i)(4)(ii).

III. Good Cause Exists to Grant TelAlaska a Temporary Waiver of the Indoor Location Rules

Good cause exists to grant TelAlaska a temporary waiver of the indoor location rules and related reporting requirements. In TelAlaska’s case, it is a provider of CMRS service that has no E911-capable PSAPs in its service area and it has not yet received a PSAP request for E911 Phase I or Phase II service. In the absence of a PSAP request and capability to receive and use indoor location data, it would be futile to require a small Tier III CMRS provider with limited resources to deploy indoor location capability and to submit to the FCC the FCC live 911 call data reports, indoor location accuracy certifications, implementation plans and progress reports

⁷ See *Fourth Report and Order*, 30 FCC Rcd 1259, at ¶ 157.

required by Section 20.18 (i). The Commission made Phase I and Phase II E911 capability contingent on a CMRS carrier's receipt of a valid PSAP request because it makes little sense to force service providers – and especially smaller carriers like TelAlaska – to divert their limited resources to implementing a capability that emergency responders in their area are unable to use. These limited resources might otherwise be available to extend and maintain voice and data services – as well as access to basic 911 service – to remote communities, Alaska native villages and vast sparsely populated areas that might not otherwise have access to any emergency calling lifeline. In order for TCI to enable E911 and indoor location capability, TCI's network engineers would need to visit each of the company's remote exchanges to install equipment in the switch and likely have someone climb each tower to install equipment. This would be impacted by the extremes of Alaskan weather, a limited 3- to 4-month construction season, and logistics issues associated with getting equipment delivered to each exchange by boat or a small plane, as TCI's communities are not served by outside roads. The Wireless Telecommunications Bureau has previously recognized the “unique logistical difficulties” associated with construction of wireless facilities in TCI's remote service area.⁸

The Commission recognizes the public interest benefit in granting a waiver when “special circumstances particular to smaller carriers may warrant limited relief from 911 requirements.”⁹ Circumstances such as “financial constraints, small and/or widely dispersed customer bases, and large service areas that are isolated, rural, or characterized by difficult terrain (such as dense

⁸ In a 2009 letter ruling granting TCI a waiver of its one-year construction deadline and an extended construction schedule, the WTB recognized that “Construction of these facilities is unusually difficult, involving complications generally not experienced in other areas of the country.” *See* Letter to Stefan M. Lopatkiewicz, Esq. re: TelAlaska, Inc. Request for Waiver, DA 09-1216, 24 FCC Rcd 7380 (May 29, 2009) at p. 3.

⁹ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Petitions for Waiver of Section 20.18(g)(1)(v) of the Commission's Rules*, Order, 22 FCC Rcd 8927, at ¶7 (2007).

forest or mountains)” are present with respect to TelAlaska’s rural service area. Significant compliance costs would be wasted in TelAlaska’s case, and it would be unduly burdensome for the Company to devote its limited personnel and resources to preparing periodic reports to the FCC and public safety organizations about E911 call activity and location accuracy that doesn’t exist because no PSAP or other local authority is in a position to use the data.

TelAlaska further submits that in light of the unique facts and circumstances in its case, has no choice but to request a waiver of the Rule Section 20.18 (i) requirements. Because TelAlaska lacks a capable PSAP partner, the Company has not deployed the necessary hardware and software in its CMRS network to enable the provision of E911 service, or to generate the location data necessary to comply with the indoor location rules and reporting requirements. Requiring TelAlaska to implement Phase II capability only so that it has the ability to prepare compliance reports – *i.e.* without any corresponding PSAP or public safety benefit – would be unduly burdensome for TelAlaska and would be contrary to the public interest. Until such time as TelAlaska has received a valid PSAP request for the services in question, TelAlaska has no reasonable alternative but to request a waiver of the Rule Section 20.18 (i) requirements.

IV. CONCLUSION

TelAlaska is committed to providing its subscribers and roaming customers with access to high quality voice and data services when traveling through its remote service area, and will implement E911 location services when a PSAP in its service area is capable of receiving, processing and utilizing the location data requests such services. Requiring TelAlaska to expend its limited resources for delivery of accurate location data to a non-capable PSAP makes no sense and would be contrary to the public interest. At the same time, grant of this Petition will

help ensure that basic 911 service remains available in areas where callers might not otherwise have access to mobile wireless services. For the reasons stated above, TelAlaska respectfully requests that the Commission grant it a temporary waiver of the location collection, delivery and reporting requirements set forth in Section 20.18(i) of the Commission's Rules.

Respectfully Submitted,

TELALASKA CELLULAR, INC.



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DECLARATION

I, David J. Goggins, hereby declare under penalty of perjury as follows:

1. I am the President and General Manager of TelAlaska Cellular, Inc.
2. I have reviewed the foregoing Petition for Temporary Waiver to be filed with the Federal Communications Commission and verify that the factual information and representations therein are true and correct to the best of my knowledge, information and belief.


Name

May 22, 2017
Date

CERTIFICATE OF SERVICE

I, Cary Mitchell, hereby certify that on this 22nd day of May, 2017, copies of the foregoing PETITION FOR TEMPORARY WAIVER were sent by e-mail, in pdf format, to the following:

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A handwritten signature in black ink, appearing to read 'Cary Mitchell', is written above a horizontal line.

D. Cary Mitchell, Esq.